

## **REMARKS**

Claims 9, 11-13, 15-32, 35, 37, 38, 40, 41, 43-58, 64, 66-71, 82-87, 89-108, 171, and 172 are pending in the Application. Claims 11-13, 15-32, 35, 37, 38, 40, 41, 43-48, 50-58, 64, 66-71, 83-87, 89-108, and 172 were indicated as allowed. Claims 9, 49, 82, and 171 were rejected. Claims 9, 32, 82, 171, and 172 are independent claims. Claims 11-13, 15-31, 64, 66, 67, and 68, claims 35, 37, 38, 40, 41, 43-58, 69, 70, and 71, and claims 83-87 and 89-108 depend, respectively, from independent claims 9, 32, and 82.

Applicants respectfully note that although claims 11-13, 15-31, 64, 66, 67, and 68 and claims 83-87 and 89-108 were shown as allowed (See Office Action Summary and Office action at page 3), these claims should have been shown as being rejected as being dependent from rejected base claims 9 and 82.

Applicants respectfully request reconsideration of pending claims 9, 49, 82, and 171, in light of the remarks set forth below.

### **Rejections under 35 U.S.C. §112**

Claims 9, 49, 82, and 171 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse the rejection.

The Office states, at page 2, "...The claims each recite the phrase 'about' when describing various values using by the claimed device. It is not clear from the specification exactly what range of values could be used in each case in order to get the desired results. For the purpose of examination, the examiner assumes all of the about phrases were removed."

With regard to independent claim 9, Applicants respectfully submit that claim 9, which recites, in part, "...wherein the echo is canceled from the near end signal when the power level of the far end signal minus the echo return loss is greater than both a threshold of hearing and the power level for the noise minus about 10 dB...", is both clear and definite.

Applicants respectfully submit that the language of claim 9 is supported by the Specification at, for example, Fig. 7 and page 21, line 5 to page 29, line 8. More specifically, the Specification states, at page 27, lines 3-6, in part, "...if the maximum power level ( $P_{\text{refmax}}$ ) of the reference signal minus the estimated ERL is less than the maximum of either the threshold of hearing, or background power level  $B_{\text{err}}$  of the error signal minus a predetermined threshold ( $P_{\text{refmax}} - \text{ERL} < \text{threshold of hearing or } (B_{\text{err}} - \text{threshold})$ ) neither echo cancellation or non-linear processing are invoked." This portion of the disclosure states when echo cancellation is is not performed. The Specification identifies the term "reference signal" as "reference signal 126(b)", which is the "voice decoder output signal 120(b)" [the "far end signal", as opposed to the "near-end signal 122(b)"] after it has been compressed and expanded, for the reasons explained at page 21, lines 18-23. The Specification, at page 26, lines 13-14, identifies the variable  $B_{\text{err}}$  as the "estimated energy level of the background noise of the error signal ( $B_{\text{err}}$ )". Restating the language of the claim, substituting the terms used in the Specification, we arrive at "...wherein the echo is canceled from the near end signal when the power level of the far end [reference] signal minus the echo return loss is greater than both a threshold of hearing and the power level for the noise [ $B_{\text{err}}$ ] minus [a predetermined threshold of] about 10 dB...." Applicants respectfully submit that while the Specification describes when cancellation is is not performed, the claim was simply drafted to recite the condition when echo cancellation is performed, by reversing the sense of the inequality and changing the logical operation "or" to "and". Further, Applicants respectfully submit that the Specification states, at page 27, line 12, "The threshold is preferably in the range of about 8-12 dB. Applicants respectfully submit that the value of "about 10 dB" recited by claim 9 is within the range of "about 8-12 dB" taught by the Specification, and therefore, that the Specification does clearly show what range of values could be used in order to get the desired results, contrary to the assertion by the Office. Therefore, Applicants respectfully submit that claim 9 is both clear and definite. Accordingly, Applicants respectfully request that the rejection of claim 9 under 35 U.S.C. §112, second paragraph, be reconsidered and withdrawn.

With regard to claim 49, Applicants have amended claim 49 to eliminate the use of the word "about", in accordance with the assumption used by the Office for examination, that the rejection of claim 49 is rendered moot, and respectfully request that the rejection of claim 49 under 35 U.S.C. §112, second paragraph be reconsidered and withdrawn.

With regard to claim 82, Applicants respectfully submit that claim 82 is rejected as reciting the same language as claim 9, and that claim 82 is both clear and definite for the reasons set forth above with respect to claim 9. Accordingly, Applicants respectfully request that the rejection of claim 82 under 35 U.S.C. §112, second paragraph, be reconsidered and withdrawn.

With regard to claim 171, Applicants have amended claim 171 to eliminate the use of the word "about", in accordance with the assumption used by the Office for examination, that the rejection of claim 171 is rendered moot, and respectfully request that the rejection of claim 171 under 35 U.S.C. §112, second paragraph be reconsidered and withdrawn.

Therefore, Applicants respectfully submit that, for at least the reasons set forth above, claims 9, 49, 82, and 171 are in compliance with 35 U.S.C. §112, second paragraph, and respectfully request that the rejection of claims 9, 49, 82, and 171, and any rejection of claims that depend therefrom, under 35 U.S.C. §112, second paragraph, be reconsidered and withdrawn.

## **CONCLUSION**

In general, the Office Action makes various statements regarding the claims and the cited references that are now moot in light of the above. Thus, Applicants will not address such statements at the present time. However, Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

Applicants believe that all of pending claims 9, 11-13, 15-32, 35, 37, 38, 40, 41, 43-58, 64, 66-71, 82-87, 89-108, and 171-172 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicants invite the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

The Commissioner is hereby authorized to charge any fees required by this submission to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: March 30, 2009

/Kevin E. Borg/  
Kevin E. Borg  
Reg. No. 51,486

McAndrews, Held & Malloy, Ltd.  
500 West Madison Street  
34th Floor  
Chicago, IL 60661  
Telephone: (312) 775-8000  
Facsimile: (312) 775-8100